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BRIAN LIVESAY

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BRIAN LIVESAY,)	Case No.: 15-cv-1385-JLS-MDD
)	
Plaintiff,)	FIRST AMENDED COMPLAINT AND
)	DEMAND FOR JURY TRIAL
v.)	
)	(Unlawful Debt Collection Practices)
)	
CASHCALL, INC.,)	
)	
Defendant.)	

BRIAN LIVESAY (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against CASHCALL, INC. (Defendant):

INTRODUCTION

- Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained herein.
3. Defendant conducts business in the State of California thereby establishing personal jurisdiction.
4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in San Diego, San Diego County, California.
6. Defendant is a business entity with a principal place of business in Anaheim, California.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. In or around 2014, Defendant began constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
9. Defendant places collection calls from telephone numbers, including, but not limited to, 424-245-2213, 443-482-6422, 626-389-3322, 702-953-5577, 954-343-8756, 323-213-2017, 678-261-5811, 719-362-4546, 804-441-9724, 818-276-3417, 866-899-1844, 719-362-4546.
10. Defendant places collection calls to Plaintiff's cellular telephones at phone numbers 619-281-83XX and 858-752-75XX.
11. Base upon the timing and frequency of Defendant's calls and per its prior business practices, each of Defendant's calls were placed using an automatic telephone dialing system.
12. On or around January 13, 2015 at approximately 12:48 p.m., Plaintiff spoke to Defendant's

1 representative, "Pam" and requested that Defendant cease calling his cellular telephone
2 number 858-752-75XX.

3 13. On or around February 16, 2015 at approximately 10:05 a.m., Plaintiff spoke to
4 Defendant's representative, "Roxy" and requested that Defendant cease calling his cellular
5 telephone number 619-281-83XX.

6 14. Plaintiff revoked any consent, express, implied or otherwise, to receive automated
7 collection calls from Defendant in the course of the telephone conversations on or around
8 January 13, 2015 and February 16, 2015.

9 15. Despite Plaintiff's repeated requests to cease, Defendant continued to place at least two
10 hundred and eleven (211) collection calls to Plaintiff over an approximate three-month
11 period.

12 **COUNT I**

13 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

14 16. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
15 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation
16 pursuant to 47 U.S.C. § 227(b)(3)(B).

17 17. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
18 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
19 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C.
20 § 227(b)(3)(C).

21 Wherefore, Plaintiff, BRAIN LIVESAY, respectfully requests judgment be entered
22 against Defendant, CASHCALL, INC. for the following:

23 18. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant
24 to 47 U.S.C. § (b)(3)(B);
25

1 19. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the
2 TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

3 20. All court costs, witness fees and other fees incurred; and

4 21. Any other relief that this Honorable Court deems appropriate.

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7 DATED: July 6, 2015
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RESPECTFULLY SUBMITTED,
KROHN & MOSS, LTD.

By: /s/Ryan Lee
Ryan Lee
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, BRIAN LIVESAY, demands a jury trial in this
case.